

Article - Education

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§12–104.

(a) In addition to any other powers granted and duties imposed by this title, and subject to the provisions of Title 11 of this article and any other restriction imposed by law by specific reference to the University System of Maryland, or by any trust agreement involving a pledge of property or money, the Board of Regents has the powers and duties set forth in this section.

(b) In addition to the powers set forth elsewhere in this title, the University may:

(1) Exercise all the corporate powers granted Maryland corporations under the Maryland General Corporation Law;

(2) Adopt and alter an official seal;

(3) Sue and be sued, complain, and defend in all courts;

(4) Maintain offices at the places the Board of Regents may designate;

(5) Enter into contracts of any kind, and execute all instruments necessary or convenient with respect to its carrying out the powers in this subtitle to accomplish the purposes of the University;

(6) Subject to the provisions of subsections (g) and (h) of this section, acquire, hold, lease, use, encumber, transfer, exchange, or dispose of real and personal property;

(7) Borrow money from any source to acquire personal property as provided in § 12–105(c) of this subtitle; and

(8) In addition to the powers set forth in Title 19 of this article and subject to the approval of the Board of Public Works, borrow money from any source for any corporate purpose, including working capital for its operations, reserve funds or interest, and mortgage, pledge, or otherwise encumber the property or funds of the University, and contract with or engage the services of any person in connection with any financing, including financial institutions, issuers of credit, or insurers.

(b–1) The University System of Maryland shall establish its corporate headquarters in Baltimore City at a place designated by the Board.

(c) The Board of Regents:

(1) Is responsible for the management of the University System of Maryland and has all the powers, rights, and privileges that go with that responsibility, including the power to conduct or maintain any institutions, schools, or departments in the University at the locations the Board determines;

(2) Shall consult with the presidents in developing policies, guidelines, and plans for the University System of Maryland; and

(3) May not be superseded in its authority by any other State agency or office in managing the affairs of the University System of Maryland or of any constituent institutions and centers under the Board’s jurisdiction.

(d) In addition to the powers conferred on it by this title, the Board has all the powers conferred on it by:

(1) The act of incorporation of the Maryland College of Agriculture;

(2) The Charter of the University of Maryland; and

(3) The charter of any constituent institution.

(e) (1) The Board may:

(i) Apply for, accept, and spend any gift or grant from the federal government, any foundation, or any other person; and

(ii) Maintain and manage gift and endowment funds.

(2) (i) Subject to subparagraphs (ii), (iii), and (iv) of this paragraph, the Board may maintain and manage quasi–endowment funds.

(ii) The Board may only make a one–time transfer of no more than \$50,000,000 from the non–State supported fund balance held and invested by the State Treasurer to the quasi–endowment fund.

(iii) 1. Subject to the limitation under subparagraph 2 of this subparagraph, the Board may make only a one–time transfer of no more than \$50,000,000 from the State–supported fund balance held and invested by the State Treasurer to the quasi–endowment fund.

2. The Board may use the investment proceeds for facility renewal projects relating only to capital facilities used for State-supported activities.

(iv) 1. Subject to the limitation under subsubparagraph 2 of this subparagraph, the Board may make only a one-time transfer of no more than \$25,000,000 from the non-State supported fund balance held and invested by the State Treasurer to the quasi-endowment fund.

2. The Board may use the investment proceeds only to match a privately funded scholarship program at the University of Maryland, College Park Campus.

(3) On or before November 1 each year, the Board shall submit to the Governor, the Comptroller, the State Treasurer, and, in accordance with § 2-1257 of the State Government Article, the General Assembly, an annual investment performance report comparing the various components of the University's gift, endowment, and quasi-endowment investment portfolio to appropriate benchmarks.

(f) (1) The Board may establish new institutions, regional higher education centers, and branches subject to:

(i) The concurrence of the Maryland Higher Education Commission; and

(ii) The approval of the Governor and the General Assembly.

(2) Without the approval of the Governor and the General Assembly, the Board may not change the name of any constituent institution.

(3) Subject to the approval of the Governor and the General Assembly, the Board may merge, consolidate, or close any constituent institution.

(4) In its discretion, the Board may establish, merge, consolidate, or close any center or institute.

(g) (1) With the approval of the Board of Public Works, the Board of Regents may sell or exchange any part of its real properties.

(2) Money received from the sale of property may be used, if approved by the Board of Public Works, only to purchase or improve property and facilities. This money may not be applied to the Annuity Bond Fund Account.

(h) With the approval of the Board of Public Works, the Board of Regents may acquire by purchase or exchange, any real property or interests in real property.

(i) (1) Title 12, Subtitle 1 of the State Government Article (“Maryland Tort Claims Act”) applies to claims or actions against the University System of Maryland and its employees.

(2) Subject to all exclusions and limitations in that subtitle, the immunity of the University System of Maryland is waived to the extent of any applicable liability insurance purchased by the University or the State Treasurer.

(3) Nothing in this subsection shall be construed to waive or abrogate sovereign immunity with respect to any claim that is not covered by or exceeds the limits of an insurance policy.

(4) Nothing in this subsection shall be construed to waive or abrogate the immunity of the University System of Maryland under the Eleventh Amendment to the United States Constitution.

(j) (1) Subject to Title 3 of the General Provisions Article, the Board may make rules and regulations, and prescribe policies and procedures, for the management, maintenance, operation, and control of the University System of Maryland.

(2) Except with respect to grievance appeals under Title 13, Subtitle 2 of this article, Title 10, Subtitles 1 and 2 of the State Government Article (“Administrative Procedure Act”) are not applicable to the University.

(k) (1) Except as provided in subsections (f) and (g) of this section, the Board:

(i) May delegate any part of its authority over the affairs of the University to the Chancellor or the presidents, or to any advisory bodies that the Board establishes under § 12–201 of this title; and

(ii) Consistent with the goals, objectives, and priorities of the Board of Regents and its legal responsibility for the efficient management of the University, shall delegate to the president of each constituent institution authority needed to manage that institution, including authority to make and implement policies promoting the mission of that institution, including the authority to establish policies appropriate to the institution’s mission, size, location, and financial resources.

(2) Any delegation of authority may be modified or rescinded by the Board of Regents at any time in whole or in part.

(3) The Board of Regents shall develop policies and guidelines that:

(i) Provide direction to the presidents of the constituent institutions on compliance with applicable law and policy;

(ii) Establish and monitor high standards of operation, including meeting appropriate quality benchmarks, using resources wisely and efficiently, managing personnel equitably, adhering to institutional mission, and meeting the educational needs of the students; and

(iii) Hold each president accountable for meeting the objectives in the institution's performance accountability plan developed in accordance with Title 11, Subtitle 3 of this article.

(l) By September 1 of each year, the Board shall submit an annual position accountability report to the Department of Budget and Management, Department of Legislative Services, the Maryland Higher Education Commission, and, in accordance with § 2-1257 of the State Government Article, the General Assembly, reporting the total positions created and the cost and the funding source for any positions created by the University in the previous fiscal year.

(m) The Board of Regents shall distribute appropriated strategic incentive funds to constituent institutions to encourage attainment of their approved mission.

(n) (1) The Board of Regents and the Chancellor are encouraged to meet periodically with the boards of visitors of the constituent institutions to develop close working relationships.

(2) To the extent possible and appropriate, the Board of Regents should include members of boards of visitors actively in all searches for campus presidents and invite members of boards of visitors to participate in meetings of the Board of Regents and its committees.

(o) Subject to Title 11, Subtitle 2 of this article, the Board of Regents may authorize the University of Maryland Center for Environmental Science to:

(1) Award graduate degrees in marine and environmental sciences jointly with another public senior higher education institution; and

(2) Award post baccalaureate certificates.

(p) The Board of Regents shall review the annual financial disclosure statements filed by the Chancellor and the presidents of each constituent institution in accordance with § 5–607 of the General Provisions Article.

(q) The Board of Regents shall provide each member appointed to the Board, at the time of appointment, and at reasonable intervals, with education and training on the Board's governance policies, fiduciary responsibilities, legal obligations, oversight of personnel policies, oversight of constituent institutions, and other responsibilities.

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